
SENATE BILL No. 157

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5-7.

Synopsis: Sales tax on gasoline and special fuel. Repeals the requirement that distributors and retail merchants prepay the sales tax on gasoline and special fuel. Allows exempt persons to claim an exemption from the sales tax on gasoline and special fuel at the time of the transaction rather than through a refund process.

Effective: January 1, 2004.

Riegsecker

January 7, 2003, read first time and referred to Committee on Finance.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 157

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-2.5-7-1, AS AMENDED BY P.L.222-1999,
- 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JANUARY 1, 2004]: Sec. 1. For purposes of this chapter:
- 4 "Kerosene" has the same meaning as the definition contained in
- 5 IC 16-44-2-2.
- 6 "Gasoline" has the same meaning as the definition contained in
- 7 IC 6-6-1.1-103.
- 8 "Special fuel" has the same meaning as the definition contained in
- 9 IC 6-6-2.5-22.
- 10 "Unit" means the unit of measure, such as a gallon or a liter, by
- 11 which gasoline or special fuel is sold.
- 12 "Metered pump" means a stationary pump which is capable of
- 13 metering the amount of gasoline or special fuel dispensed from it and
- 14 which is capable of simultaneously calculating and displaying the price
- 15 of the gasoline or special fuel dispensed.
- 16 "Indiana gasoline tax" means the tax imposed under IC 6-6-1.1.
- 17 "Indiana special fuel tax" means the tax imposed under IC 6-6-2.5.



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"Federal gasoline tax" means the excise tax imposed under Section 4081 of the Internal Revenue Code.

"Federal special fuel tax" means the excise tax imposed under Section 4041 of the Internal Revenue Code.

"Price per unit before the addition of state and federal taxes" means an amount which equals the remainder of:

- (i) the total price per unit; minus
- (ii) the state gross retail, Indiana gasoline or special fuel, and federal gasoline or special fuel taxes which are part of the total price per unit.

"Total price per unit" means the price per unit at which gasoline or special fuel is actually sold, including the state gross retail, Indiana gasoline or special fuel, and federal gasoline or special fuel taxes which are part of the sales price.

"Distributor" means a person who is the first purchaser of gasoline from a refiner, a terminal operator, or supplier, regardless of the location of the purchase.

"Prepayment rate" means a rate per gallon of gasoline, rounded to the nearest one-tenth of one cent (\$0.001), determined by the department by determining the product of:

- (1) the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax; multiplied by
- (2) the state gross retail tax rate; multiplied by
- (3) ninety percent (90%);

"Purchase or shipment" means a sale or delivery of gasoline, but does not include:

- (1) an exchange transaction between refiners, terminal operators, or a refiner and terminal operator; or
- (2) a delivery by pipeline, ship, or barge to a refiner or terminal operator.

"Qualified distributor" means a distributor who

- (1) is a licensed distributor under IC 6-6-1.1. and
- (2) holds an unrevoked permit issued under section 7 of this chapter.

"Refiner" means a person who manufactures or produces gasoline by any process involving substantially more than the blending of gasoline.

"Terminal operator" means a person that:

- (1) stores gasoline in tanks and equipment used in receiving and storing gasoline from interstate or intrastate pipelines pending wholesale bulk reshipment; or



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(2) stores gasoline at a boat terminal transfer that is a dock or tank, or equipment contiguous to a dock or tank, including equipment used in the unloading of gasoline from a ship or barge and used in transferring the gasoline to a tank pending wholesale bulk reshipment.

SECTION 2. IC 6-2.5-7-3, AS AMENDED BY P.L.192-2002(ss), SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 3. (a) With respect to the sale of gasoline which is dispensed from a metered pump, **unless the purchaser provides an exemption certificate in accordance with IC 6-2.5-8-8**, a retail merchant shall collect, for each unit of gasoline sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) six percent (6%).

Unless the exemption certificate is provided, the retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5.

(b) With respect to the sale of special fuel or kerosene which is dispensed from a metered pump, unless the purchaser provides an exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant shall collect, for each unit of special fuel or kerosene sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) six percent (6%).

Unless the exemption certificate is provided, the retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5.

SECTION 3. IC 6-2.5-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4. ~~(a) If a sale of gasoline or special fuel is exempt from the state gross retail tax, the person who pays the tax to the retail merchant may file a claim for refund with the department. The person must file the claim on the form, in the manner, and with the supporting documentation, prescribed by the department. If a person properly files a claim for refund, the department shall refund to him the state gross retail tax collected with respect to the exempt transaction.~~

~~(b) Notwithstanding the other provisions of this section, the department may prescribe simplified procedures to make adjustments~~

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1 ~~for exempt transactions:~~ **purchasing the gasoline or special fuel may**
 2 **issue an exemption certificate to the seller instead of paying the tax.**
 3 **The person shall issue the certificate on forms and in the manner**
 4 **prescribed by the department under IC 6-2.5-8-8. A seller**
 5 **accepting a proper exemption certificate under this section has no**
 6 **duty to collect or remit the state gross retail tax on that purchase.**

7 SECTION 4. IC 6-2.5-7-5, AS AMENDED BY P.L.192-2002(ss),
 8 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JANUARY 1, 2004]: Sec. 5. (a) Each retail merchant who dispenses
 10 gasoline or special fuel from a metered pump shall, in the manner
 11 prescribed in IC 6-2.5-6, report to the department the following
 12 information:

13 (1) The total number of gallons of gasoline sold from a metered
 14 pump during the period covered by the report.

15 (2) The total amount of money received from the sale of gasoline
 16 described in subdivision (1) during the period covered by the
 17 report.

18 (3) That portion of the amount described in subdivision (2) which
 19 represents state and federal taxes imposed under this article,
 20 IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

21 (4) The total number of gallons of special fuel sold from a
 22 metered pump during the period covered by the report.

23 (5) The total amount of money received from the sale of special
 24 fuel during the period covered by the report.

25 (6) That portion of the amount described in subdivision (5) that
 26 represents state and federal taxes imposed under this article,
 27 IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

28 (b) Concurrently with filing the report, the retail merchant shall
 29 remit the state gross retail tax in an amount which equals five and
 30 sixty-six hundredths percent (5.66%) of the gross receipts, including
 31 state gross retail taxes but excluding Indiana and federal gasoline and
 32 special fuel taxes, received by the retail merchant from the sale of the
 33 gasoline and special fuel that is covered by the report and on which the
 34 retail merchant was required to collect state gross retail tax. The retail
 35 merchant shall remit that amount regardless of the amount of state
 36 gross retail tax which he has actually collected under this chapter.
 37 However, the retail merchant is entitled to deduct and retain the
 38 amounts prescribed in ~~subsection (c),~~ IC 6-2.5-6-10 and IC 6-2.5-6-11.

39 ~~(c) A retail merchant is entitled to deduct from the amount of state~~
 40 ~~gross retail tax required to be remitted under subsection (b) an amount~~
 41 ~~equal to:~~

42 ~~(1) the sum of the prepayment amounts made during the period~~

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1 covered by the retail merchant's report; minus
2 (2) the sum of prepayment amounts collected by the retail
3 merchant; in the merchant's capacity as a qualified distributor;
4 during the period covered by the retail merchant's report.

5 For purposes of this section, a prepayment of the gross retail tax is
6 presumed to occur on the date on which it is invoiced.

7 SECTION 5. THE FOLLOWING ARE REPEALED [EFFECTIVE
8 JANUARY 1, 2004]: IC 6-2.5-7-6; IC 6-2.5-7-7; IC 6-2.5-7-8;
9 IC 6-2.5-7-9; IC 6-2.5-7-10; IC 6-2.5-7-11; IC 6-2.5-7-12;
10 IC 6-2.5-7-13; IC 6-2.5-7-14; IC 6-2.5-7-15.

11 SECTION 6. [EFFECTIVE JANUARY 1, 2004] **The following**
12 **statutes, each as amended by this act:**

13 (1) IC 6-2.5-7-1;

14 (2) IC 6-2.5-7-3;

15 (3) IC 6-2.5-7-4; and

16 (4) IC 6-2.5-7-5;

17 **apply to sales of gasoline and special fuel occurring after December**
18 **31, 2003.**

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